

November 25, 2020
701 Main Street
Lancaster, MA 01523
United States

Orlando Pacheco
Interim Planning Director, Town of Lancaster
CC: Lancaster Board of Selectmen, Lancaster Building Inspector

Dear Mr. Pacheco,

We request your assistance with the subdivision dependent on the Flexible Development special permit issued by the Lancaster Planning Board on January 11, 2016 to "Poras Realty Trust and Weinerwald II Realty Trust" to resolve a non-compliance with that special permit. We would like to review your suggestions for "next steps" at our December 14th meeting.

It has been brought to the Planning Board's attention that the development is currently not in compliance with the requirements of that special permit. The developer has placed a structure in the "open space" parcel.

The special permit includes a clear requirement for the "open space" parcel required within the subdivision in Condition 5 of the approval: "...said parcel shall not be used as the site of any buildings or other permanent structures; except that the two (2) Drainage Easements on the Open Space parcel may be used for storm water management as represented on the Flexible Development plan."

No alteration has been made to the conditions of that special permit that would allow the construction of any structure on that open space parcel. As you are aware, altering the conditions of a special permit would require a new noticed hearing and a super-majority vote of the Planning Board. No other board or town officer is authorized to alter the conditions of that special permit.

Board Chair Williston asked you during the week of 11/15/2020 to review the developer's commitment to complete Condition 5, regarding conveying the parcel to the Conservation Commission or providing a restriction. Gary Melanson, the developer, stated to you that his intention is to convey the parcel to the Conservation Commission. As the town will ultimately receive the benefit of this parcel, allowing the structure to remain on the open space parcel would require that the town also accept reduced utility of that open space and also accept the risk associated with the structure constructed on the parcel.

The Planning Board met and discussed this issue on November 25th, 2020 and voted to recognize this non-compliance with Condition 5 and initially proceed by forwarding this issue to you. We are also sending copies of this letter to the Lancaster Building Inspector and the Board of Selectmen.

The Planning Boards enduring requirement is that the open space parcel be conveyed or restricted in accordance with Condition 5 of the subdivision special permit: free of any building or permanent structures.

Sincerely, on behalf of the Lancaster Planning Board,



Russell W. Williston, Chair, Lancaster Planning Board